

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MILO & GABBY, LLC and KAREN  
KELLER, an individual,

Plaintiffs,

v.

AMAZON.COM, INC.,

Defendant.

No. 13-cv-1932-RSM

DECLARATION OF VANESSA POWER  
IN SUPPORT OF AMAZON'S  
SUPPLEMENTAL MOTION FOR  
AWARD OF FEES AND COSTS

Note for Motion: September 25, 2015

I, VANESSA POWER, declare as follows:

1. I am an attorney with Stoel Rives LLP ("Stoel Rives") in Seattle, Washington and admitted to practice in this Court. I am counsel for non-party Amazon.com, Inc. ("Amazon") in the above-captioned matter. I am over the age of eighteen and competent to testify to the facts contained herein.

2. Attached at **Exhibit A** is a true and accurate copy of a redacted summary of invoices submitted to Amazon for services rendered by Stoel Rives in this case. To efficiently review my firm's invoices and to redact privileged communications, the content of the invoices were transferred into a spreadsheet. The content contained at Exhibit A is a true and correct copy of the content contained in the actual invoices issued in this case.

3. The services provided to Amazon in connection with this case have included: performing legal research; investigating factual allegations; drafting and filing all pleadings,

1 motions, responses, legal memoranda, and other documents filed by Amazon, including the  
 2 Motion to Dismiss, Answer, Defenses, and Counterclaims, Motion to Dismiss, Motion for  
 3 Summary Judgment, and other motions; preparing discovery requests and responses; preparing  
 4 for and taking Plaintiffs' depositions; engaging in mediation; communicating with Plaintiffs'  
 5 counsel; conferring with Amazon on strategy decisions; and reviewing and managing documents  
 6 related to this case.

7 4. As Amazon's co-lead counsel on this case, I contemporaneously reviewed the  
 8 time records included in each monthly draft invoice before the invoice was sent to Amazon to  
 9 ensure the fees charged to Amazon were reasonable for the work performed and the results  
 10 achieved. I regularly wrote off or reduced the amount of time to be invoiced to Amazon if, in  
 11 my judgment, work had not been performed as efficiently as it could have been. In some  
 12 instances, I simply reduced the fees charged as a professional courtesy. Through such review  
 13 and reduction, I addressed any potential duplication of efforts by members of our litigation team.  
 14 I also wrote off most administrative or clerical time performed by support staff, such as work  
 15 editing briefs or checking citations.

16 5. The billing rates for the Stoel Rives attorneys who worked on this case are  
 17 reasonable based on our respective levels of experience, and areas of expertise. Stoel Rives  
 18 charges Amazon significantly reduced hourly rates for its attorney and paralegal services. The  
 19 following Stoel Rives attorneys and paralegals worked on this case at the following reduced rates  
 20 (customary rates are also provided for reference).

Name	Category	Standard Rate	Rate Billed
Brian Park	Attorney, Partner	\$515	\$456
Vanessa Power	Attorney, Partner	\$430	\$385
Nathan Brunette	Attorney, Senior Associate	\$350	\$273
Rex Watkins	Attorney, Associate	\$220	\$188
Heidi Wilder	Paralegal	\$240	\$160
Marina Goodrich	Paralegal	\$195	\$160
Marishka Marten	Paralegal	\$285	\$160

1           6.       The blended hourly rate for the Stoel Rives attorneys whose services were billed  
2 to Amazon is \$325.50.

3           7.       The resumes of attorneys whose services were billed are attached at **Exhibit C**.

4           8.       Heidi Wilder, a paralegal who worked on this case, is experienced and efficient.  
5 She has been a paralegal since 2000. Ms. Wilder's educational background includes a B.A.  
6 degree in Latin American Studies. Before becoming a paralegal with Stoel Rives, Ms. Wilder  
7 was a legal assistant and paralegal for the King County Prosecuting Attorney's Office and a legal  
8 assistant for a local, competitive firm, and thus entered her career as a Stoel Rives' paralegal  
9 with experience in legal work. Ms. Wilder is also skilled in electronic document management  
10 and discovery. Thus, her hourly rate of \$160 is reasonable for a paralegal of her experience.

11          9.       Marina Goodrich, a paralegal who worked on this case, is experienced and  
12 efficient. She has been a paralegal since 2010, though she is no longer with Stoel Rives. Ms.  
13 Goodrich's educational background includes a Master's degree in Management and Technology  
14 of Printed Arts and an Advanced Paralegal Certificate. Before becoming a paralegal, Ms.  
15 Goodrich was the manager of Stoel Rives' project staff, a position that involved document  
16 review and management, as well as electronic discovery. Thus, her hourly rate of \$160 is  
17 reasonable for a paralegal of her experience.

18          10.      Marishka Marten, a paralegal who worked on this case, is experienced and  
19 efficient. She has been a paralegal since 1987. Ms. Marten's educational background includes a  
20 B.S. degree in Legal Administration. Ms. Marten is skilled in investigating and evaluating  
21 corporate matters and federal tax procedures. Thus, her hourly rate of \$160 is reasonable for a  
22 paralegal of her experience.

23          11.      Attached at **Exhibit B** is a summary of non-taxable costs associated with this  
24 case, which are properly compensable as attorneys' fees.

25          12.      The expenses that Stoel Rives billed to Amazon include mediation expenses,  
26 deposition expenses, purchase of test products, document delivery, and limited discovery

document management expenses. Stoel Rives did not charge Amazon for expenses such as, for example, those incurred in performing computerized research or copying documents.

13. A substantially equal amount of time was spent preparing the defense to each of the different claims against Amazon as the key issues were common to all causes of action.

14. I have divided the costs and fees of Amazon's defense in this case into two categories, separated by the date of the Court's Order Granting Amazon's Motion to Dismiss in Part: (A) fees and costs related to pre-April 11, 2014, work on the claims that Amazon ultimately prevailed on via summary judgment; and (B) fees and costs related to post-April 11, 2014, work on the claims that Amazon ultimately prevailed on via summary judgment.

	Actual Fees	Fees Sought	Actual Costs <sup>1</sup>	Costs Sought
Prior to April 11, 2014 Dismissal Order:	\$30,166.10 (after deducting courtesy write-off and discounts of \$7,741.40)	\$12,928.33 (reflecting 3/7 apportionment)	\$267.00 (after deducting courtesy write-off and discounts of \$666.25)	\$114.43 (reflecting 3/7 apportionment)
After April 11, 2014 Dismissal Order:	\$101,971.90 <sup>2</sup> (after deducting courtesy write-off and discounts of \$18,918.60)	\$40,788.76 (reflecting 40% apportionment)	\$6,928.75 (after deducting courtesy write-off and discounts of \$3,999.46)	\$2,771.50 (reflecting 40% apportionment)
<b>TOTAL</b>	<b>\$132,138.00</b>	<b>\$53,717.09</b>	<b>\$7,195.75</b>	<b>\$2,885.93</b>

15. Pre-April 11, 2015 Dismissal Order: With the exception of M&G's design patent

<sup>1</sup> The amount for pre-April 11, 2014 expenses is reduced from the amount reflected in my initial declaration in support of Amazon's motion for fees and costs. Amazon has taken out \$150 related to the fee associated with a *pro hac vice* motion. The amount for post-April 11, 2014 expenses is increased slightly to reflect additional expenses charged before the motion for fees was filed.

<sup>2</sup> The amount for post-April 11, 2014 fees is reduced to reflect actual billing and further applied discounts.

claim (Count I), all work performed analyzing and defending against M&G's seven claims (including the claims dismissed via the Court's April 11, 2014 order) was based on analysis of the Copyright Act and Lanham Act and corresponding preemption principles. In addition to the Lanham Act claim, two of the three claims dismissed under the Court's April 11, 2014, Order sounded in trademark (unfair competition and trademark counterfeiting), and factual analysis and development for those claims overlapped with other claims. Accordingly, for purposes of apportionment of pre-April 11, 2014 work, a 3/7 factor is applied, resulting in the following amounts for fees and costs after rounding down: \$12,928.33 (fees) and \$114.43 (costs). These figures do not include courtesy write-offs and discounts, which are not being sought for reimbursement .

16. Post-April 11, 2015 Dismissal Order: With the exception of M&G's design patent claim (Count I), all work performed analyzing and defending against M&G's four remaining claims was based on analysis of the Copyright Act and Lanham Act. Work performed related to the Lanham Act claim involved approximately 1/3 of hours, as well as additional time for overlapping work related to common facts and research. Thus, for purposes of apportionment of post-April 11, 2014 work, a 40% factor was applied, accounting for roughly 33% (1/3) of work tied directly to the Lanham Act claim, and at least 7% tied to overlapping factual and legal matters, resulting in the following amounts for fees and costs after rounding down: \$40,788.76 (fees) and \$2,771.50 (costs). Again, these figures do not include courtesy write-offs and discounts of attorneys' fees and costs, which are not being sought for reimbursement.

17. The total amount of fees and costs sought for reimbursement is \$53,717.09 (fees) + \$2,885.93= **\$56,603.02 (total).**

1 I declare under penalty of perjury under the laws of the United States and the State of  
2 Washington that the foregoing statements are true and correct to the best of my ability.

3 SIGNED this 15th day of September, 2015, at Seattle, Washington.

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5 /s/ Vanessa Soriano Power \_\_\_\_\_  
6 Vanessa Soriano Power  
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CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all ECF-registered counsel of record.

/s/ Leslie Lomax

Leslie Lomax

Signed this date September 15, 2015 at Seattle, WA

CERTIFICATE OF SERVICE  
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